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10/595,178

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Salvatore Catania

AP089-06

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05/11/2009

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CANADA

EXAMINER

BRADFORD, CANDACE L

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

05/11/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--|---|--|
| Office Action Summary | Application No. 10/595,178 | Applicant(s) CATANIA, SALVATORE | |
| | Examiner CANDACE L. BRADFORD | Art Unit 3634 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/17/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 28 is objected to because of the following informalities: Claim 28 depends upon itself, which is improper. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The term "essentially" in claim 24 is a relative term which renders the claim indefinite. The term "essentially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

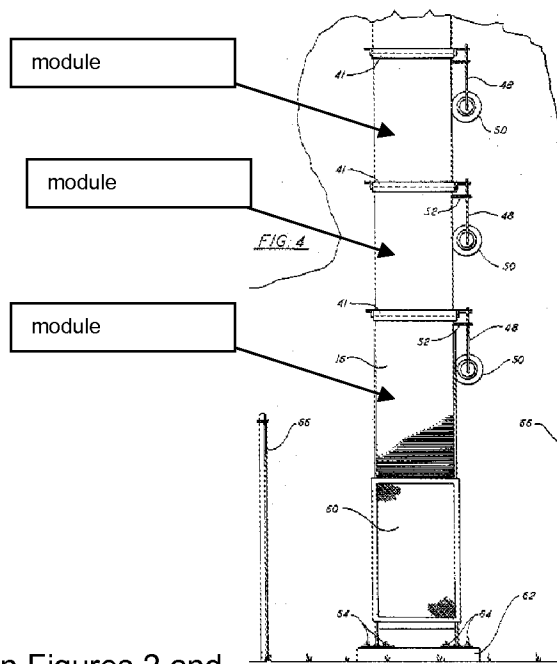
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a plurality of modules, as best seen in Figure 4, stacked one on top of the other, each defining a top surface, the top surface being closed by means 48, suitable to open under the weight of a person in order to allow said person to

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access the module slowing down the fall, and close immediately afterwards, as best



seen in Figures 2 and . and as recited in column 6, lines 30-35.

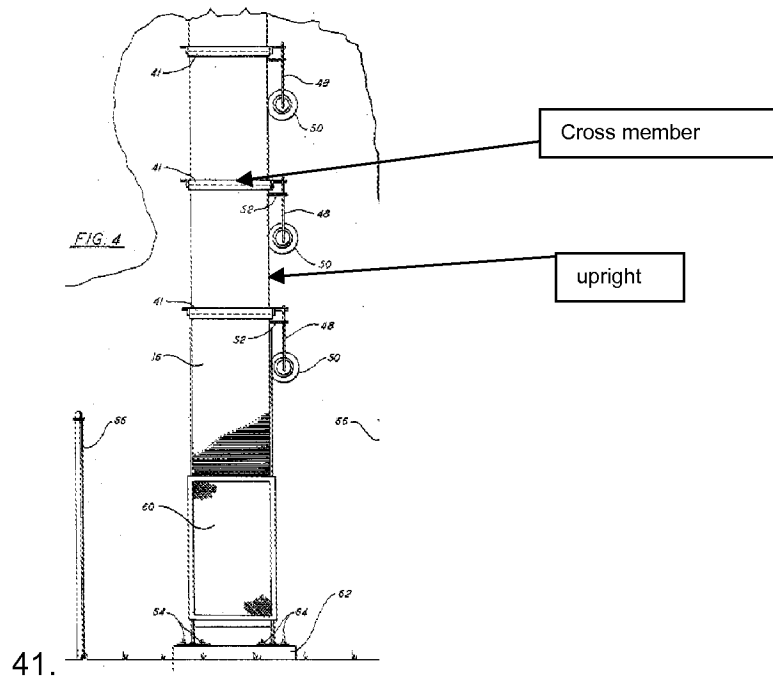
Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 1 wherein the height of the structure 14, is not less than the height of the last floor of the building to which said structure is connected, as best seen in Figure 1.

Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 1 comprising a bottom module 20, placed at ground level, and several modules stacked on top of the bottom module, as best seen in Figures 1 and 4.

Claim 5 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 4 wherein each module

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comprises a frame at least consisting of uprights joined together with cross members



Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 5 wherein enclosing means 18, are attached to the frame, as best seen in Figure 2.

Claim 7 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 4 wherein each module also comprises means 41, adapted to connect it to at least an adjacent module and means 18, apt to attach it to the outer wall of the building, as best seen in Figures 2 and 4.

Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 4 wherein the modules have a square section with a side length included between 1,8 and 4 metres, approximately, as best seen in Figure 4, as recited in column 3, lines 8-11.

Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 5 wherein the top surface of each module is attached to at least one of the cross members 41, and comprises the supporting means 38 that carry the cushioning devices 40.

Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 10 wherein the cushioning devices 40, are integral with the supporting means 38, and are able to absorb the kinetic energy of a person in free fall in the module above, effectively slowing down the fall, as recited in column 3, lines 39-45.

Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 10 wherein the top surface of an additional bottom module consists of supporting means 38, and cushioning devices 40, with a rectangular shape, as best seen in Figure 2.

Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 4 wherein each additional module also comprises an access door housed in the wall of the additional module that faces the building and is aligned with an emergency exit of the building, as best seen in Figure 2.

Claim 17 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 16 wherein the access door is a fire door 30.

Claim 19 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 16 suitable to connect at least two floors of the building to the ground level, wherein each of said floors of the building is attached to an additional module comprising an access door 30, as best seen in Figures 2 and 4.

Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 19 wherein the access door of each additional module comprises locking means suitable to prevent opening if the additional module is occupied and/or if its top surface is opening, as recited in column 2, line 58.

Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 19 wherein the top surface of each module comprises locking means suitable to prevent access to the module below if said module is occupied or if the access door of said module is open, as recited in column 2, lines 7-10.

Claim 22 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 16 suitable to connect only a floor of the building to the ground wherein only the additional module attached to said floor of the building comprises an access door 30, housed in the wall facing the building and positioned aligned with an emergency exit on said floor, as best seen in Figure 1.

Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 16 suitable to connect only a floor of the building to the ground wherein only the access door 30, of the additional module attached to said floor of the building can be opened, as best seen in Figure 2.

Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 10 wherein the top surface of the bottom module comprises two bascule parts 50, consisting of supporting means 38, and cushioning devices 40, in the shape of a rectangle.

Claim 26 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 5 wherein the bottom module also comprises a slide 20, suitable for "accompanying" the persons coming from the additional module above to an exit.

Claim 27 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 5 wherein the bottom module also comprises at least a flexible cylindrical tube 20, which is supported by a support and comprises a funnel-shaped opening, suitable for "accompanying" the persons coming from the additional module above to an exit.

Claim 28 is rejected under 35 U.S.C. 102(b) as being anticipated by Talucci (4037685). Talucci discloses a structure as claimed in claim 28 wherein the bottom module also comprises a roundabout system with several flexible cylindrical tubes that comprise a funnel-shaped opening 20 and are suitable for "accompanying" the persons coming from the additional module above to an exit.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Talucci (4037685) in view of Youngblood (1200686). Talucci as advanced above fails to disclose a module with a not less than the height of the floor of the building to which it is connected. Youngblood teaches the utility of a module 11, of an escape apparatus in which the module height is not less than the height of the floor of the building to which it is connected, as best seen in Figure 1. It would have been obvious as a matter of design choice to provide a module with a not less than the height of the floor of the

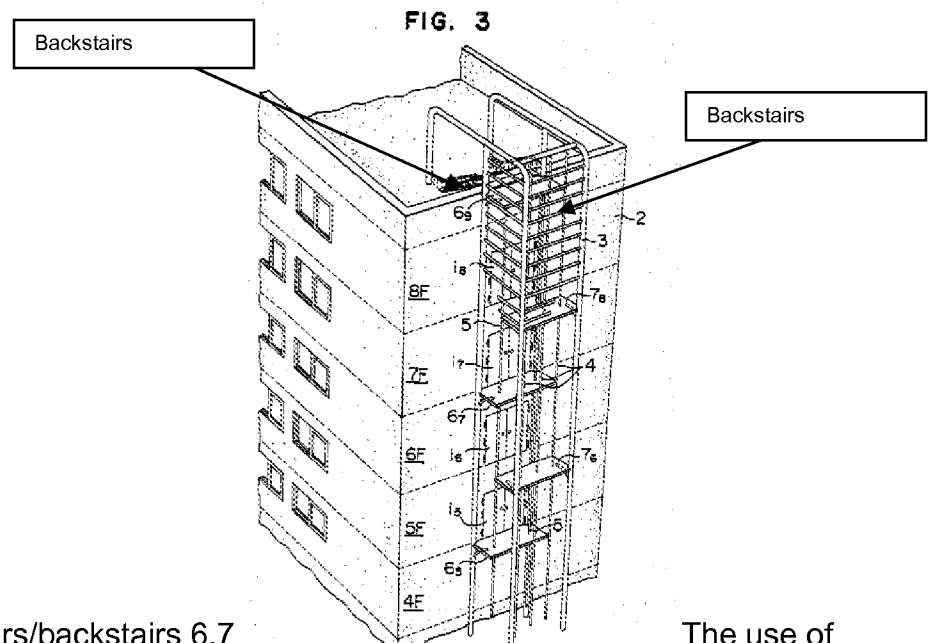
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building to which it is connected, since such a modification would have involved a mere change in size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Talucci (4037685) in view of Uyeda (GB 1378561). Talucci as advance above fails to disclose elastic means to allow the supporting means to open and close under the weight of a person. Uyeda teaches the utility of elastic means 39, which allow the supporting means to open/strech under the weight of a person, as recited in lines 110-105. The use of elastic/biasing means is commonly used in the art to allow for components of a device to quickly go back into place once an object has passed through. Therefore, it would have been obvious to one of ordinary skill in the art to replace the bascule parts of Talucci with the elastic means of Uyeda so as to allow for components of a device to quickly go back into place once an object has passed through.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Talucci (4037685) in view of Uyeda (GB 1378561). Talucci as advance above fails to disclose a cushioning devices with a triangular shape. Uyeda teaches the utility of a triangular shaped cushioning device 37, as best seen in Figure 6. It would have been obvious as a matter of design choice to replace the rectangular cushioning device of Talucci with a triangular cushioning device as taught by Uyeda, since such a modification is would have involved a mere change in the shape of a component. A change in shape is generally recognized as being within the level of ordinary skill in the art.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Talucci (4037685) in view of Kanbe (3848698). Talucci as advanced above fails to disclose backstairs and/or emergency stairs included in each additional module. Kanbe teaches



backstairs and/or emergency stairs are commonly used in addition to emergency escape modules to allow people to easily access the escape apparatus from the buildings and also provides an additional escape means. Therefore it would have been obvious to one of ordinary skill in the art to provide the fire escape device of Talucci with emergency stairs/backstairs as taught by Kanbe so as to allow people to easily access the escape apparatus from the buildings and also provides an additional escape means.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Talucci (4037685) in view of Youngblood (1200686). Talucci as advanced above fails to disclose the structure is essentially equal to the distance from the ground of the ceiling

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of said floor. Youngblood teaches the utility of a structure 11 equal to the distance from the ground of the ceiling of said floor, as best seen in Figure 1. It would have been obvious as a matter of design choice to provide a structure is essentially equal to the distance from the ground of the ceiling of said floor, since such a modification would have involved a mere change in size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CANDACE L. BRADFORD whose telephone number is (571)272-8967. The examiner can normally be reached on 9am until 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Candace L. Bradford
Patent Examiner
Art Unit 3634
April 30, 2009

/Alvin C. Chin-Shue/
Primary Examiner, Art Unit 3634